



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2682
www.raleighnc.gov

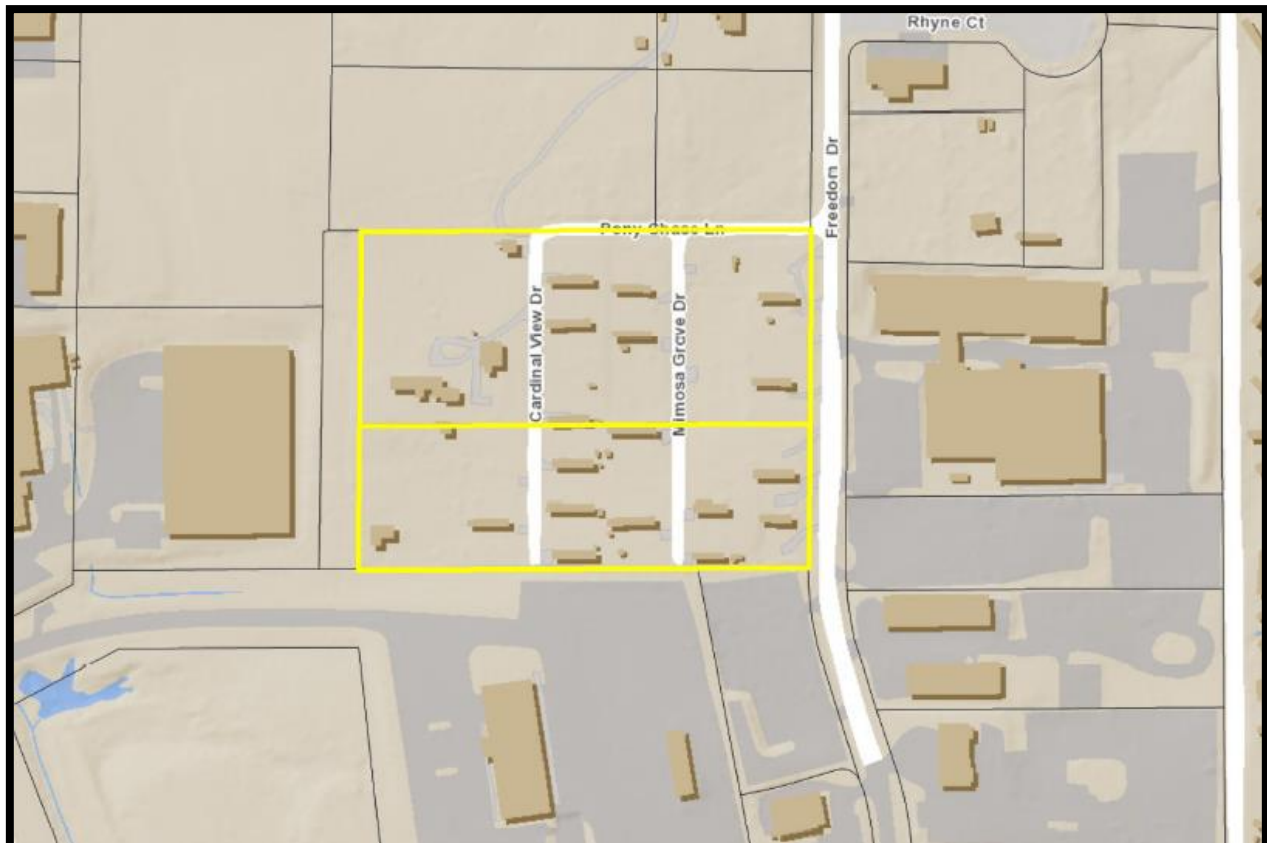
Case File: A-9-18

Property Address: 0 and 835 Freedom Drive

Property Owner: Freedom Partners, LLC

Project Contact: Michael Birch

Nature of Case: A request for a Special Use Permit pursuant to Section 10.3.2. and Section 10.2.9. of the Unified Development Ordinance to permit an increase in the density/intensity of a nonconforming use. Specifically, the applicant is seeking a 5 dwelling unit increase in the number of mobile homes allowed on the subject property from 30 dwelling units to 35 dwelling units. The subject property is zoned Industrial Mixed-Use-3 and is located at 0 and 835 Freedom Drive.

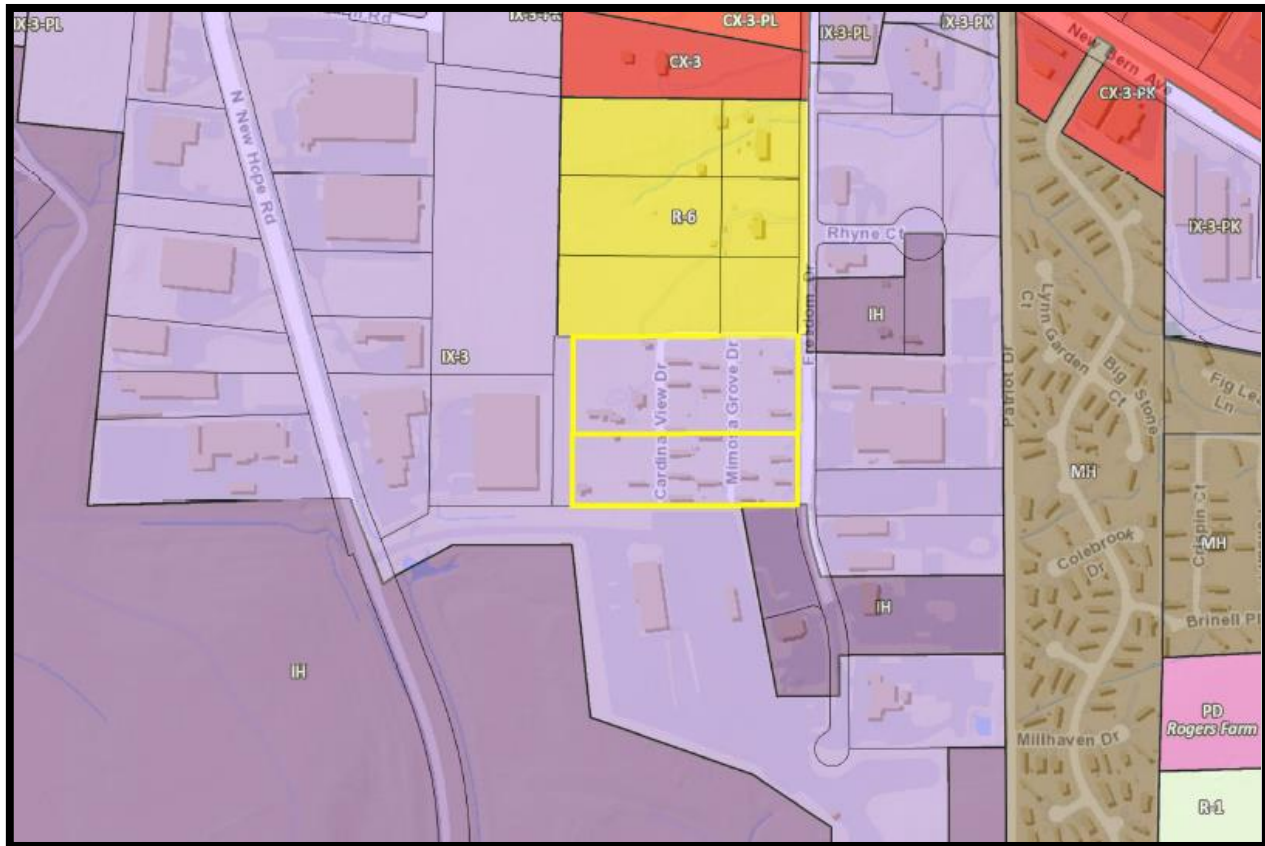


0 & 835 Freedom Drive – Location Map

To BOA: 1-8-18

Staff Coordinator: Eric S. Hodge, AICP

ZONING
DISTRICTS: Industrial Mixed-Use-3



0 & 835 Freedom Drive – Zoning Map

Section 10.2.6.E. Special Use Permit Showings

Before a request for a special use permit is granted, the Board of Adjustment must show that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
2. The proposed use is allowed as a special use in the respective zoning district (see *Chapter 6. Use Regulations*);
3. The proposed use complies with any specific use standard listed in *Chapter 6. Use Regulations* without the granting of any variance to the specific use standard;
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;

6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
7. Signage is suitable and appropriate; and 8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

Section 10.3.2 Nonconforming Uses

A. Authority to Continue

1. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming use may continue in operation on the same land area and on the same floor area of the structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. The continuation of a nonconforming use shall not be constructed to permit an increase in the number of dwelling units or a reduction of land area to the number of dwelling units.
2. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming structure.

B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, painting, energy conservation, fencing and landscaping, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.2.C. through Sec. 10.3.2.G. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.

C. Extensions

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity, unless a special use permit is issued by the Board of Adjustment for such extension or expansion. Such prohibited activity shall include, without being limited to:

1. Extension of the use to any structure or land area other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.
2. Extension of the use within a building or other structure to any portion of the floor area that was not occupied by the nonconforming use on September 1, 2013, or when an amendment to this UDO causes the use to become otherwise nonconforming.
3. Operation of the nonconforming use in such a manner as to conflict with this UDO, or to further conflict with this UDO, if already conflicting as of September 1, 2013, or any amendments to this UDO is applied to the property, any use limitations established for the district in which the use is located.
4. New construction, reconstruction or structural alteration except those described as ordinary repair and maintenance in Sec. 10.3.2.B. above.
5. Extensions of the use to any new construction, enlargement or additions other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.

D. Relocation

1. No structure that is devoted in whole or in part to a nonconforming use shall be relocated in whole or in part to any other location on the same or any other tract or lot unless the entire structure and the use of the structure shall conform to all the regulations of the district to which the structure and use are relocated.

2. No nonconforming use of land shall be relocated in whole or in part to any other location on the same or any other lot unless such use conforms to all the regulations of the district to which the use of land is relocated.

E. Change in Use

A nonconforming use of land or of a structure shall not be changed to any use other than a use permitted in the zoning district in which the land or structure is located. When a nonconforming use has been changed to a permitted use, it shall only be used thereafter for a use permitted in the zoning district in which it is located. For purposes of this paragraph, a use shall be deemed to have been changed when an existing nonconforming use has been terminated and the permitted use has commenced and continued for a period of 7 days.

F. Abandonment or Discontinuance

1. When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued, vacated or abandoned for a period of 365 consecutive days or more, the use shall not be reestablished or resumed.

2. Operation of any nonconforming use without a license or permit required of the owner or operator, for 365 consecutive days, shall constitute a termination of the nonconforming use.

3. Following the abandonment or discontinuation of a nonconforming use, any subsequent use or occupancy of land or structure shall comply with the regulations of the zoning district in which the land or structure is located.

G. Damage or Destruction

1. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall not be restored unless the structure and the use will conform to all regulations of the district in which the structure and use are located or unless a special use permit is issued by the Board of Adjustment for such restoration.

2. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or partially destroyed, by exercise of eminent domain riot, fire, accident explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% or less of the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within 12 months of the date of such damage or destruction.

3. If a nonconforming use is located within an Airport Overlay District, the following shall apply: a. No renovation, maintenance or repair shall be made if the damage or destruction is more than 80% of its replacement cost immediately prior to such damage, unless the nonconformity is brought into compliance with this UDO; or b. A special use permit is issued by the Board of Adjustment for such restoration and the restoration does not create a greater hazard to navigation than the previously existing nonconformity.

4. Replacement cost shall be determined by either: a. The median value based Square Foot Costs established by the most recent edition of Building Construction Cost Data published by R.S. Means; or b. The most recent tax value for building as reported in the county tax office

where the property is located. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.

5. The percent of damage shall be calculated by using the selected replacement value of the entire structure as the denominator and by using the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for the denominator must be used.

Special Use Permit Application



RALEIGH
DEPARTMENT OF
CITY PLANNING

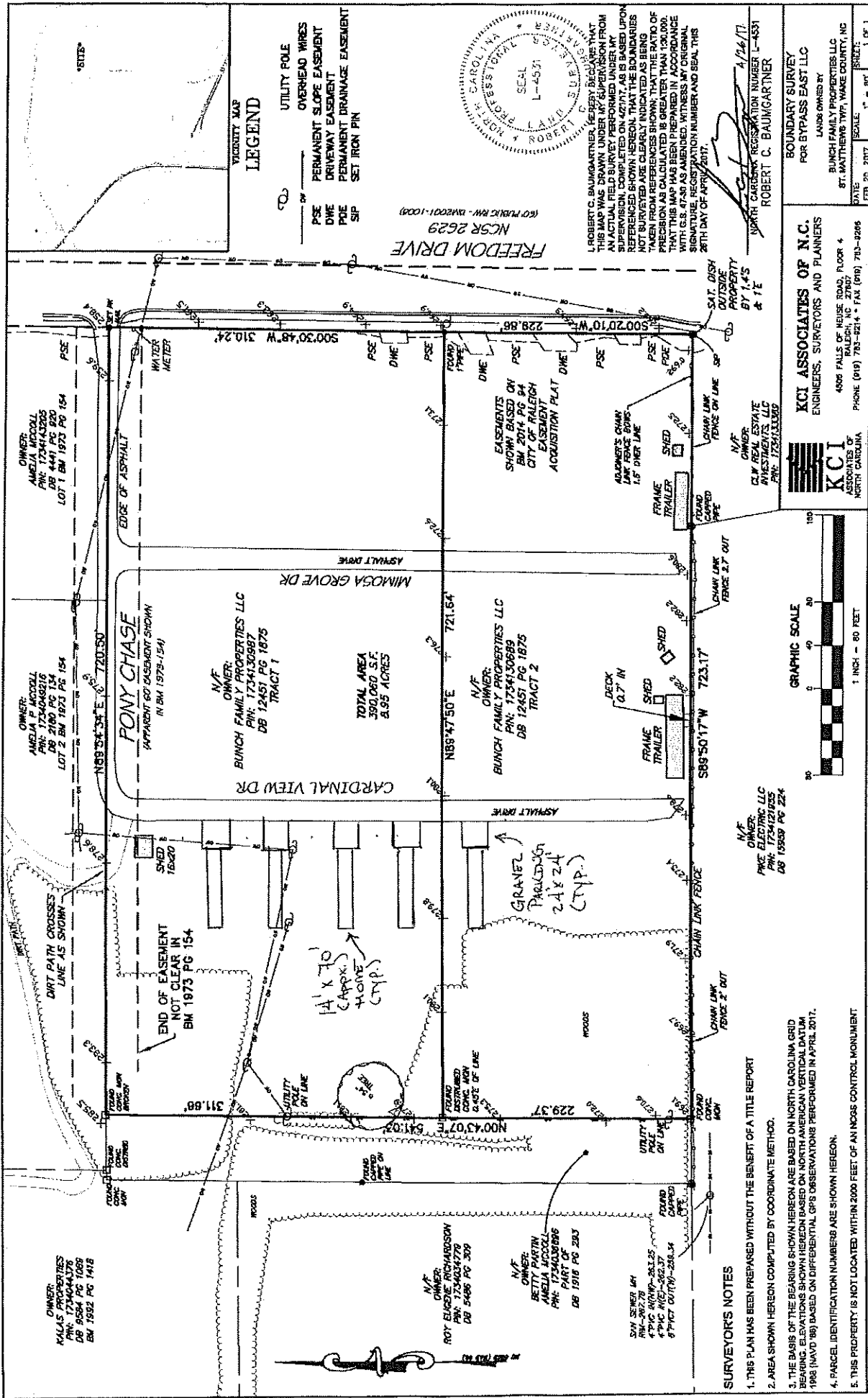


Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Nature of request (Submit addendum on separate sheet, if more space is needed.) This is an application to permit an increase in the density/intensity of a nonconforming use on the property. Specifically, applicant is seeking an increase in density of five (5) mobile home units, from a maximum of thirty (30) units to thirty-five (35) units.	OFFICE USE ONLY
	Transaction Number <i>A-9-18</i>
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous special use permit request, provide the case number. A-10-14 and A-11-14	

GENERAL INFORMATION		
Property Address 835 Freedom Drive and 0 Freedom Drive		Date 11/21/17
Property PIN 1734-13-0987 and 1734-13-0689	Current Zoning IX-3	
Nearest Intersection Pony Chase Lane and Freedom Drive	Property size (in acres) 8.96	
Property Owner Freedom Partners LLC	Phone	Fax
Owner's Mailing Address PO Box 2687, Chapel Hill, NC 27515		
Email		
Project Contact Person Michael Birch	Phone 919.645.4317	Fax
Contact's Mailing Address 2235 Gateway Access Point, Suite 201, Raleigh, NC 27607		
Email mbirch@morrisrussell.com		
Property Owner Signature <i>[Signature]</i>		
Notary Sworn and subscribed before me this <u><i>7th</i></u> day of <u><i>December</i></u> , 20 <u><i>17</i></u>		Notary Signature and Seal <i>Daryl L. Puryear</i> <div style="border: 1px solid black; padding: 5px; text-align: center;"> DARYL L. PURYEAR NOTARY PUBLIC WAKE COUNTY, NC </div>

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A Special Use Permit Application will not be considered complete until all required submittal components listed on the Special Use Permit Checklist have been received and approved.



LEGEND

- UTILITY POLE
- OVERHEAD WIRES
- PERMANENT SLOPE EASEMENT
- PERMANENT DRAINAGE EASEMENT
- PERMANENT DRIVEWAY EASEMENT
- PERMANENT DRAINAGE EASEMENT
- SET IRON PIN

NC SR 2629
FREEDOM DRIVE
(60' PUBLIC HW - BAYVIEW 1-1008)



I, ROBERT C. BAUMGARTNER, HEREBY DECLARE THAT THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION, COMPLETED ON 4/24/17, AND IS BASED UPON A FIELD SURVEY PERFORMED BY ME OR UNDER MY SUPERVISION. THE BOUNDARIES SHOWN HEREON ARE CLEARLY INDICATED AS BEING TAKEN FROM REFERENCES SHOWN; THAT THE RATIO OF PRECISION AS CALCULATED IS GREATER THAN 1:30,000. THAT THIS MAP HAS BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE AND SEAL ON THIS DATE AND SEAL THIS 28TH DAY OF APRIL 2017.

ROBERT C. BAUMGARTNER
NORTH CAROLINA REGISTRATION NUMBER L-4531
4/24/17

KCI ASSOCIATES OF N.C.
ENGINEERS, SURVEYORS AND PLANNERS
4505 FALLS OF NEUSE ROAD, FLOOR 4
RALEIGH, NC 27607
PHONE (919) 783-8214 • FAX (919) 783-8286



- SURVEYOR'S NOTES**
1. THIS PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
 2. AREA SHOWN HEREON COMPUTED BY COORDINATE METHOD.
 3. THE BASIS OF THE BEARING SHOWN HEREON ARE BASED ON NORTH CAROLINA GRID BEARING. ELEVATIONS SHOWN HEREON BASED ON NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88) BASED ON DIFFERENTIAL GPS OBSERVATIONS PERFORMED IN APRIL 2017.
 4. PARCEL IDENTIFICATION NUMBERS ARE SHOWN HEREON.
 5. THIS PROPERTY IS NOT LOCATED WITHIN 2000 FEET OF AN NCOS CONTROL MONUMENT.

OWNER:
AMELIA MCCOLL
PIN: 1734043205
DB 4441 PG 920
LOT 1 BM 1973 PG 154

OWNER:
AMELIA MCCOLL
PIN: 1734043216
DB 2180 PG 134
LOT 2 BM 1973 PG 154

PONY CHASE
APPARENT 60' EASEMENT SHOWN
IN BM 1973-154

N/F OWNER:
BUNCH FAMILY PROPERTIES LLC
PIN: 1734130987
DB 12451 PG 1875
TRACT 1

TOTAL AREA
390,060 S.F.
8.95 ACRES

N/F OWNER:
BUNCH FAMILY PROPERTIES LLC
PIN: 1734130989
DB 12451 PG 1875
TRACT 2

N/F OWNER:
PKE ELECTRIC LLC
PIN: 1734121055
DB 13939 PG 224

OWNER:
KALLAS PROPERTIES
PIN: 1734044176
DB 9554 PG 1069
BM 1982 PG 1418

N/F OWNER:
ROY ELIZABETH RICHARDSON
PIN: 1734024178
DB 5486 PG 309

N/F OWNER:
BETTY MARTIN
AMELIA MCCOLL
PIN: 1734043205
DB 4441 PG 920

SUN SEWER LK
4" PVC W/IMP - 35.125
4" PVC W/IMP - 362.37
8" PVC OUTLET - 288.14

1734130987
FREEDOM PARTNERS LLC
PO BOX 2687
CHAPEL HILL NC 27515-2687

1734034779
RICHARDSON, ROY EUGENE
1100 N NEW HOPE RD
RALEIGH NC 27610-1416

1734036896
PARTIN, BETTY HOWELL MCCOLL, AMELIA
P
1005 FREEDOM DR
RALEIGH NC 27610-1421

1734044376
KALAS PROPERTIES LLC
4805 WESTMINSTER DR
RALEIGH NC 27604-6027

1734049216
MCCOLL, AMELIA P
1005 FREEDOM DR
RALEIGH NC 27610-1421

1734121955
PIKE ELECTRIC LLC
PO BOX 868
MOUNT AIRY NC 27030-0868

1734130689
FREEDOM PARTNERS LLC
PO BOX 2687
CHAPEL HILL NC 27515-2687

1734133389
CLW REAL ESTATE INVESTMENTS LLC
1437 HERITAGE LINKS DR
WAKE FOREST NC 27587-4289

1734137692
EXPEDITED MOTO FREIGHT, LLC
134C NEW KENT PL
CARY NC 27511-4556

1734137849
MORGAN LEASING LLC
900 FREEDOM DR
RALEIGH NC 27610-1424

1734138424
PJP LLC
810 FREEDOM DR STE B
RALEIGH NC 27610-1426

1734143205
MCCOLL, AMELIA P
1005 FREEDOM DR
RALEIGH NC 27610-1421

1734146159
DUNN, ROBERT C
4704 RHYNE CT
RALEIGH NC 27610-1410